

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RALINK TECHNOLOGY  
CORPORATION,

Plaintiff,

v.

LANTIQ DEUTSCHLAND GMBH,

Defendant.

Case No.: C 11-01549 EJD (PSG)  
(Related to Case No. 11-234 EJD (PSG))

**ORDER DENYING RALINK  
TECHNOLOGY CORPORATION'S *EX*  
*PARTE* APPLICATION FOR AN  
ORDER TO SHOW CAUSE;  
ORDER DENYING PLAINTIFF  
LANTIQ DEUTSCHLAND GMBH'S  
MOTION TO STRIKE**

**(Re: Docket Nos. 91, 92)**

In this patent infringement suit, Plaintiff Ralink Technology Corporation ("Ralink") applies *ex parte* for an order to show cause regarding contempt and for sanctions. Defendant Lantiq Deutschland GMBH ("Lantiq") moves to strike or deny Ralink's application. Lantiq also moves for attorneys' fees and costs. Ralink opposes the motion to strike. On November 15, 2011, the parties appeared for hearing. Having reviewed the papers and considered the arguments of counsel,

IT IS HEREBY ORDERED that Ralink's *ex parte* application and Lantiq's motion to strike are DENIED. In addition, Lantiq's motion for attorneys' fees and costs is DENIED.

Ralink previously moved to compel Lantiq to respond to interrogatories and document requests. Lantiq objected to the discovery on the grounds that: (1) the discovery sought was premature because the parties had not yet conducted a case management conference in this district; (2) the discovery sought was improperly captioned; and (3) Ralink had not shown that the discovery

sought was relevant. The court overruled all of these objections and ordered Lantiq to respond completely to Ralink's first set of interrogatories and produce all documents responsive to Ralink's first set of requests for production no later than August 26, 2011 (the "July 28 Order").<sup>1</sup>

Ralink now complains that Lantiq had failed to comply with the July 28 Order and requests that the undersigned certify such facts so that the presiding judge may issue an order to show cause to Lantiq why it should not be adjudged to be in contempt. In response, Lantiq contends that Ralink's request is procedurally defective. Lantiq notes that Ralink violated the local rules in this district by failing to meet and confer prior to filing the *ex parte* application. Lantiq also argues that it has complied with the July 28 Order.

The court finds that both parties have failed to meet and confer as required by this court's local rules.<sup>2</sup> None of the declarations accompanying either Ralink's *ex parte* application or Lantiq's motion to strike includes any statement evidencing that the requirement to meet and confer has been satisfied. At the hearing, both parties conceded that they had not met and conferred in advance of their filings. The local rules in this district indisputably require that the parties meet and confer before filing any motion. Meet and confer can be "satisfied only through direct dialogue and discussion - either in a face to face meeting or in a telephone conversation."<sup>3</sup> Because no such meeting or conversation took place, neither party is entitled to the relief it seeks.

The parties are warned that any further motion practice in violation of L.R. 1-5 will result in

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<sup>1</sup> See Docket No. 85.

<sup>2</sup> Civ. L.R. 7-10 states that a party may file an *ex parte* motion "only if a statute, Federal Rule, local rule or Standing Order authorizes the filing of an *ex parte* motion in the circumstances and the party has complied with the applicable provisions allowing the party to approach the Court on an *ex parte* basis." In support of the *ex parte* application, Ralink cites to 18 U.S.C. §401 and 28 U.S.C. §636(e)(6)(B)(iii). Neither of these statutes, however, expressly authorizes the filing of an *ex parte* motion.

<sup>3</sup> See Civ. L.R. 1-5(n).

1 sanctions.

2 **IT IS SO ORDERED.**

3 Dated: November 29, 2011

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5 PAUL S. GREWAL  
6 United States Magistrate Judge  
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